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Letter dated 10 March 1998 from the Deputy Minister for Foreign Affairs of Colombia addressed to the United Nations High Commissioner for Human Rights

Madam,

I have the honour to transmit herewith the observations of the Government of Colombia on your report E/CN.4/1998/16, to be submitted to the Commission on Human Rights at its fifty-fourth session beginning on 16 March 1998.

I request you to transmit the attached document to the Commission,* in accordance with paragraph 11 of the Agreement on the establishment of an Office of the United Nations High Commissioner for Human Rights in Colombia.

Accept, Madam, the assurances of my highest consideration.

(Signed) Camilo Reyes Rodriguez
Deputy Minister
for Foreign Affairs

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* The annex is circulated only in the languages in which it was received.

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Annex

Republic of Colombia

OBSERVATIONS OF THE COLOMBIAN GOVERNMENT ON THE REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (E/CN.4/1998/16)

Pursuant to article 11 of the Agreement on the establishment of an Office of the United Nations High Commissioner for Human Rights in Colombia

Introduction

1. The initiative for establishing an Office of the United Nations High Commissioner in Colombia arose from the shared concern of the Colombian Government, human rights organizations and the international community to find ways of resolving the issue of violations of human rights and of international humanitarian law in our country.

2. Colombia is a democracy that has suffered repeatedly from recourse to violence in the settlement of disputes. The situation is an exceedingly complex one: there are a great many factors and players conspiring to generate a climate of violence that has persisted for decades without resolution. The Government thus faces enormous difficulties in giving effect to its duty to safeguard the basic human rights of its citizens.

3. Yet the Government and the State investigative and supervisory agencies have given increasing priority to a concerted effort to overcome the crisis, understanding that this requires a process for restoring a commitment to live together peacefully, as well as stricter enforcement of the right to justice, and a guaranteed monopoly over firearms by the forces of public security.

4. Building down the level of violence has thus become the major challenge facing the Government, and Colombian society in general. We owe it to ourselves as a civilized nation, and it is perhaps the single issue that unites us most thoroughly as a sovereign people.

5. The task of making peaceful civilian life possible has been a priority commitment during the mandate of the present Government, which terminates next 7 August. To this end, it has launched a number of policies aimed at consolidating the peace and humanizing the conflict, as well as protecting and defending human rights.

6. For more than 30 years, Colombia has been caught up in internal armed conflict between the State and insurgent groups. This conflict has never been resolved, despite the efforts of successive Governments, which have succeeded in demobilizing some of the groups, amounting to 6,000 combatants. 1/ There remain two large guerrilla groups that have persisted in armed rebellion for more than three decades, and have expanded their presence across the national territory thanks, in large part, to the ample financial resources they derive from kidnapping Colombians and foreigners, and from their links to the drug traffic. At the same time, the guerrillas have increased their capacity to

disrupt the country's development through their attacks on its oil, electricity and roads infrastructure. During 1997, the guerrillas attempted to block the electoral process, by kidnapping and murdering candidates to public office.

7. Since their failed attempt to disrupt local elections last October, the guerrilla groups have kidnapped and threatened more than 60 popularly-elected mayors, demanding that they resign or face assassination.

8. The conflict has been exacerbated yet further by the rise of vigilante or "private justice" groups (referred to as the "paramilitaries" in the High Commissioner's report), who seek to supplant the Government in its struggle against the guerrilla groups, and who are often funded from the drug traffic. They have committed atrocious crimes against civilians and have become the primary party responsible for perpetrating murderous attacks and forced displacements, in a vicious, no-holds-barred attempt to wrest territorial control.

9. There can be no doubt that so many years of conflict, hatred, death and destruction have led to a sharp deterioration with respect to human rights and to international humanitarian law. The armed conflict has become the greatest source of violations against the right to life, to liberty and to personal integrity.

10. The duty of any democratic State under these circumstances, as specific as they are complex, is to persist in the search for a negotiated resolution to the conflict, and to make every possible effort to protect and ensure its citizens' fundamental rights.

11. In terms of peace and humanization of the conflict, the Colombian Government has followed an active and consistent policy as described in the annex to this paper, and has paved the way for future administrations to continue along this path.

12. In the specific area of human rights, policy has been focused as a priority on the following issues: being open to international scrutiny and cooperation; specific measures against impunity; protection of human rights workers and victims of violations; reinforcing the commitment of the police and the armed forces (Fuerza Pública) to show respect for human rights and international humanitarian law; development of an ambitious legislative agenda and the design and introduction (for the first time in Colombia) of a set of programmes and measures to address the problem of people who are forcibly displaced by the violence.

13. In the context of openness to international scrutiny and cooperation, as a keystone of its human rights policy the Colombian Government has sought to build a constructive relationship with international human rights organizations, both under the aegis of the United Nations and within the Inter-American system of human rights, bearing in mind that in this issue, the objective is not to save our image but rather to seek to improve the situation.

14. Acting in accordance with this philosophy, the President of Colombia proposed to the then United Nations High Commissioner for Human Rights, Mr. José Ayala Lasso, during his visit to Colombia in late 1994, that he open an office in Colombia.

15. That suggestion was accepted during the fifty-second session of the Commission on Human Rights (1996), when the Chairman issued a declaration calling on the High Commissioner to proceed as quickly as possible to find suitable funding and to open the Office.

16. That declaration by the Commission's Chairman sets out the mandate of the Office in the following terms: "to assist the Colombian authorities in developing policies and programmes for the promotion and protection of human rights and to observe violations of human rights in the country ...".

17. In pursuit of that mandate, and after a fruitful period of negotiations between the Colombian Government and the United Nations High Commissioner for Human Rights, an agreement was signed for the opening of the Office, which defined the objective of the Office in the following terms: "IV. GENERAL AIMS AND CRITERIA FOR THE ACTIVITIES OF THE OFFICE. 5. In accordance with the mandate described in the preamble to this Agreement, the Office shall observe the human rights situation with a view to advising the Colombian authorities on the formulation and implementation of policies, programmes and measures to promote and protect human rights in the climate of violence and internal armed conflict prevailing in Colombia, and to enable the High Commissioner to make analytical reports to the Commission on Human Rights."

18. The Government reaffirms its conviction that the Office of the High Commissioner in Colombia is the most appropriate mechanism for the Commission on Human Rights to help bring about the day when Colombians will achieve the goal that, more than any other, unites them as a nation: that of peace and full respect for human rights.

19. The mandate of the Office represents something of an innovation in the United Nations way of dealing with countries where there are serious problems of human rights, since field inspections are a very valuable source of intelligence for making proposals and advising the Government and society. This, moreover, links the situation of domestic armed conflict to the working objectives of the Office, broadening its vantage point overall the players involved in the violation of human rights and international humanitarian law.

20. The Government again reiterates that it is open to scrutiny and cooperation from international human rights agencies, and it recognizes that it is a fundamental obligation of States to overcome all obstacles to the full respect of basic rights.

21. The Government believes in the spirit of cooperation that guides the United Nations, and is prepared to continue working right to the end of its mandate to put into effect the policies that it has developed to protect and defend human rights and to humanize and resolve the domestic armed conflict through negotiation.

22. With respect to the report submitted by the High Commissioner, and without prejudice to the general and specific considerations relating to it that are set out in this document, the Government is clear in its readiness to give it all the prominence it merits, to recognize, analyse and give heed to each of the recommendations and concerns it expresses about the Government's action and that of its agents, and to proceed with the development of policies and proposals in addition to those now in effect for the further protection and defence of the fundamental rights of all Colombians.

23. To make good on this commitment, the Government hopes that the Office, in this second stage, will acquire the level of expertise needed to help the Government and Colombian society in preparing concrete and viable proposals aimed at resolving every one of the aspects that impede respect for basic rights, and that it will thus progress beyond the degree of generality that has marked most of the recommendations it has offered so far.

I. GENERAL COMMENTS ON THE REPORT

24. The Government appreciates the effort that the Office has made to come to terms with the complexity of the situation surrounding the issue of human rights and international humanitarian law in our country. It welcomes the report's recognition, however cursory it may be, of the historical background underlying the current situation, as well as the fact that it identifies the actors and problems that are involved today, and that it singles out those that are the most to blame. Similarly, the Government considers the characterization of the situation in 1997 to be appropriate, in that it identifies the search for peace and the sabotaging of the electoral process as the key issues.

25. Following are the Government's observations on certain general aspects of the report:

A. With respect to the context

26. The Government considers it appropriate, and fully in keeping with the terms of its mandate, that the Office has included the armed conflict in its report as part of its detailed analysis of the grave human rights situation afflicting the country.

27. The report rightly points to the armed conflict as a major source of human rights violations, and it has made valuable efforts in several cases to discern the vast and insidious influence that that conflict has in undermining essential human rights and in limiting the exercise of fundamental freedoms.

28. In the Government's view, however, the report does not attach sufficient weight to this factor. Indeed, the armed confrontation has persisted for so long, has become so intense, and affects so much of the country's territory, that it must be regarded as a structural factor of a scope and importance that cannot be readily compared with other causes.

29. The report fails to appreciate the full extent of the negative impact that this conflict is having on the enjoyment of many economic and social rights. It is hoped that the Office will undertake a closer analysis in its

future reports into the complex ways in which the continuous climate of armed conflict has polarized different social sectors and the mentalities of the various actors and their victims.

30. The Government feels that the report's treatment of the drug trafficking phenomenon tends to reduce it to a question of crime and corruption, and fails to examine its deplorable effects in terms of fueling, intensifying and exacerbating the armed conflict, and in particular the impulse it has given to the formation and support of private vigilante gangs.

31. The drug traffic, in fact, has led to the collapse of social mores among broad sectors of the population, and has fostered widespread intolerance among the most diverse strata of Colombian society. Urban militias, vigilante groups, private armies, and an extensive network for "settling accounts", whereby people take the law into their own hands, can all be traced, directly or indirectly, to the perversion and corruption caused by the drug economy. It has been responsible, as has been confirmed through much academic study and research, for a virtual explosion in the indices of violence since the late 1980s.

32. The strenuous and costly fight waged by the Colombian Government in its efforts to dismantle the structures of the drug trade - which had in effect declared war on the country's legal and social institutions - set the stage for a dramatic increase in human rights violations. The terrorist actions of the drug traffickers have been aimed at many different social groups, including journalists, who have been one of its prime targets. The Government is disappointed therefore that the report seems to minimize the importance of this factor, and to treat it as just another routine criminal matter.

B. With respect to the players involved

1. The guerrillas

33. In the Government's eyes, the report correctly assigns a high degree of responsibility to subversive armed gangs for the general deterioration of the human rights situation in Colombia.

34. In particular, it notes that they have launched systematic campaigns of death threats and assassinations, engaged in mass killings and occasionally in torture, directed against the population at large and against specific sectors such as members of political parties and former subversives who had reintegrated themselves into civilian life.

35. The Government also welcomes the report's highlighting of the violations committed by these groups against many of the provisions of international humanitarian law, such as their attacks on civilian lives and property - in particular, blowing up pipelines and power pylons and setting fire to public transport vehicles, not to mention the forced displacement of people, where the guerrillas have been responsible for some 30 per cent of all such incidents.

36. Yet the Report fails to mention the clear hand that the guerrillas have had in the serious violations of political rights, which they have committed

on a large scale as a deliberate part of their war strategy. In fact, the assassination of many campaigners for publicly elected office, the growing number of threats against elected officials and candidates, and the wave of sabotage that they directed against the elections of 26 October 1997 - which proceeded despite this outrage - have been on a far greater scale than the report admits, and have moreover been squarely attributable to the groups that have taken up arms.

37. While a significant part of the report is devoted to describing violations of international humanitarian law by the guerrillas, it fails to provide much detail on the way these groups have been using anti-personnel mines as tactical weapons. It is well known that subversives are the prime culprits in sowing these home-made mines called "foot breakers" (quiebrapatas) as part of their terrorist tactics, in flagrant disregard of humanitarian law. It should be noted that during the current year, 30 members of the Public Forces have lost their lives to such devices, and that they have claimed many civilian victims as well, most of them children.

38. It should also be noted that the degree of war-like violence employed by the guerrillas in their confrontations has reached unprecedented proportions. Clear proof of this assertion can be seen in their military operations conducted between mid-1996 and March of 1998 in the southern part of the country, such as at Puerres, Las Delicias, Patascoy and El Billar, where armed columns of the southern wing of the Revolutionary Armed Forces of Colombia (FARC), several hundreds strong, launched a series of vicious ambushes and attacks against the Public Forces, in which at least 140 soldiers were killed.

39. The areas where the guerrillas maintain their strongest presence coincide with those where illegal crops are grown, a fact that demonstrates their close ties to these illicit sources of funds. Indeed, together with the proceeds of abduction and extortion, the guerrillas derive enormous economic power from these sources: their revenues for 1994 alone were estimated at more than 600 million dollars. Colombia's guerrillas are today a veritable war machine, deployed across as many as 120 fronts, and one that has increasingly diffuse political goals, that resorts to ever more degraded methods of confrontation, and that counts as many as 15,000 operatives.

2. Vigilante groups

40. The Government recognizes and shares the concern expressed in the report with respect to the very serious phenomenon of "private justice" or vigilante gangs (inaptly referred to in the report as "paramilitaries") and its implications for human rights. The report correctly notes that these armed groups are today responsible for the greatest number of violations, involving both killings and torture.

41. The Government feels, however, that the report tends to underestimate their numerical and economic strength, as well as their offensive capabilities. The paramilitary phenomenon has in fact contributed decisively to increasing the level of violent confrontation, jeopardizing the public's most basic human rights, and making yet more remote the prospect of a negotiated end to the conflict. Even more importantly, however, this

so-called "paramilitarismo" represents a profound challenge to the institutional existence of the Colombian state itself, and not least to the legitimacy of the police and armed forces (Fuerza Pública).

42. The Office of the High Commissioner correctly stresses the undeniable magnitude that the "paramilitary" phenomenon has acquired as a threat to human rights, but the report strays from consistency when it lumps under the same heading "violations and threats against the right to life committed by the Public Forces and by vigilante groups" - a statement that indeed contradicts other portions of the same text, and its conclusions (see E/CN.4/1998/16, chap. II and chap. V, paras. 175 and 178).

43. While the Government agrees that policies against these vigilante groups have been far from successful, and does not deny that members of the police and armed forces may have condoned or are still condoning their actions, this can in no way be construed as official tolerance or acquiescence about those facts.

44. The Government finds it unacceptable that the report lumps the "paramilitaries" together with the police and armed forces (Fuerza Pública), as if the army and the police somehow share equal blame with those groups for violations and threats against the right to life, and for forced displacements. It should nevertheless be noted that in its conclusions, the report makes clear that instances where members of the public forces have joined in or condoned vigilante actions are only occasional (paras. 175 and 178). There have no doubt been individual cases of such behaviour, conditioned perhaps by the climate of polarization surrounding the armed conflict, but they can certainly not be attributed to any official policy.

45. The tendency of the report to refer in the same breath to the Fuerza Pública and the so-called "paramilitaries" may betray an insufficient appreciation of the complexity that the "paramilitary" phenomenon has acquired. The report groundlessly asserts that there is an unbroken history of continuity between the self-defence groups that sprang up in the late 1950s and the present-day phenomenon. In fact, the difference is as stark as that between an organization of armed peasant volunteers and a modern war machine that is well financed, capable of multi-front operations, and equipped with sophisticated military weaponry and training.

46. Certainly, the features of "paramilitarism" as we know it today can be traced in part to the profound economic impact of the drug trade, which has become a multinational enterprise engaged in conquering and defending its crop growing areas and its trade routes, and in part to the defensive reactions of those sectors of society most severely victimized by the guerrillas.

47. As a result of this misplaced focus, the report suffers from some glaring omissions. For example, it fails to mention the recent action in which Government officials and members of the Fuerza Pública - 15 victims in all - were savagely murdered by a paramilitary group calling itself the "United Colombian Self-Defense Units" at San Carlos de Guaroa in the department of Meta on 4 October 1997 as they were attempting to enforce an order for the forfeiture of rural properties belonging to drug traffickers.

48. The Government has issued very clear directives for the prosecution of these groups. As a result, the Ministry of Defence and the military high command have adopted as one of the priorities of their 1998 strategy to dismantle the facilities of those gangs and to capture their members. The Police have issued similar directives to their units.

49. On another front, the Government has established a "Search Squad" to act in support of the Office of the Procurator-General of the Nation (Fiscalía General) in executing arrest orders against members of these gangs, and it is offering generous rewards for information leading to the capture of the six principal leaders of these organizations.

50. This policy is beginning to show concrete results, and demonstrates a growing awareness, shared by public opinion, about the dimensions of the problem. Thus, between last September and February of this year, 87 gang members have been captured, 29 have been killed, and 23 have been remanded in custody, in the course of the army's operations against these organizations.

C. With respect to government policies regarding pacification and human rights

51. The Government is aware that full respect for fundamental rights in Colombia can only be achieved once the armed conflict has been brought to an end. But it is equally conscious that respect for human rights, besides being an inescapable and immediate ethical imperative, can also be instrumental in reaching a settlement. The Government has therefore been pursuing two complementary lines of action as priorities: to seek a negotiated end to the armed conflict, and to promote and protect human rights and respect for international humanitarian law.

1. Pacification policy

52. Since the beginning of the current administration, a comprehensive pacification policy has been put in place, and has been followed consistently and vigorously. The policy is based on a recognition that achieving peace also implies bringing about social, political and cultural change. As well, it recognizes the political nature of the guerrilla groups and the need for negotiation even while the conflict persists. Similarly, it is open to contributions from Colombian society and from the international community.

53. The report, while it makes mention of individual actions in this area, fails to recognize the policy as such. Nor does it offer an accurate reflection of the way the guerrillas have responded to the offers of dialogue: in fact, they have repeatedly refused to enter into any kind of peace-making process that would provide a political way out of the armed conflict, and they have refused to sign any interim humanitarian accords that would set bounds on their military actions.

54. Today, the problem of peace is the focus of growing interest among broad and varied sectors of Colombian society. Progress is being made in the definition of a government pacification policy, a task that is in the hands of

the National Peace Council that was recently created by law. The national Peace Council brings together the Government, State and civil society to work jointly towards this end.

2. Human rights policy

55. The Government considers that the most serious problems relating to civil and political rights are well identified in the report.

56. In this regard, the executive branch has been pursuing a human rights policy in which the central thrust has been directed to dealing with those problems. Thus, the policy has focused on dealing with forced displacements, combating impunity, strengthening the commitment of the police and armed forces (Fuerza Pública) to human rights, and building a constructive and permanent relationship with non-governmental human rights organizations.

57. The Government recognizes that the pursuit of these pacification and human rights policies has yet to produce any radical change in the situation. But while this fact may be understandable enough, given the context of violence and armed conflict gripping the country, it should not be allowed to detract from the value and importance of the real progress that has been made, without which the situation would be that much worse.

58. The Government notes that the report simply makes reference to isolated actions, without mentioning the existence and pursuit of the policy within which they have occurred, a policy that was designed and put into effect at the outset of the current presidential mandate.

59. Many of the Government's actions over the past year are recognized in the report. Yet the report's approach does not establish any clear connection between those actions and the problems highlighted. Rather, government actions are relegated to a separate chapter, divorced from the central issues covered by the document.

60. On another point, the Government wishes to stress that, while it has examined carefully and has attempted to apply international recommendations through its human rights policy, that policy reflects its conviction that respect for human rights is an essential element for the very survival of the constitutional rule of law and the basic principles of our democracy. Therefore, it feels that the report falls short of the mark in referring to the Government's actions in this regard as merely representing "follow-up of international recommendations by the Colombian State" (chap. III, paras. 137-159).

61. Again, some of the Government's initiatives are presented inaccurately or incompletely, such as those relating to the preparation and submission to Congress of the draft Military Penal Code and the draft law to criminalize enforced disappearances, as referred to below.

62. With respect to the report's analysis of economic, social and cultural rights, there are a number of shortcomings to be noted, and these will be discussed later in Chapter III of the present document.

D. With respect to the conclusions

63. The Government agrees with the arguments offered by the High Commissioner on behalf of keeping the Office in Colombia in operation, and has expressly stated its concurrence.

64. The Government shares the profound concern of the High Commissioner about the scope and severity of human rights violations in the country, with particular reference to massacres, extrajudicial executions, murders, practice of torture, enforced disappearance and kidnappings, threats and the enforced displacement of the population.

65. The Government emphatically rejects the High Commissioner's conclusion to the effect that violations of human rights in Colombia can be characterized as "serious, gross and systematic", adjectives that imply a complete misreading of the Government's entire efforts.

66. In particular, the Government rejects the categorization of human rights violations as "systematic", a connotation that should be reserved for authoritarian regimes where the State denies the situation, does nothing to resolve problems and, on the contrary, condones, plans, encourages and perpetrates outrages. This is not the case with Colombia's Government, as is demonstrated elsewhere in the report and its conclusions, and as is corroborated by the present document.

67. The Government reiterates its comments about the successes and shortcomings of its handling of the armed conflict as a source of human rights violations, as noted in the present chapter, and again regrets the violations of international humanitarian law and their serious repercussions on the civilian population.

68. The Government shares the concerns of the High Commissioner about the rising violations of human rights committed by the so-called "private justice" or vigilante groups, and the possible links between these groups and certain members of the Public Forces, without prejudice to the observations to be found in the present chapter.

69. The Government again calls attention to the fact that it has undertaken a clear offensive against these vigilante gangs, and that it has begun to show results. It refers as well to the measures taken and the progress achieved in exerting control over the special private security services, which are dealt with in Chapters I and II of this document.

70. The Government notes that the High Commissioner has commented favourably on the considerable reduction in the number of human rights violations attributable to members of the Public Forces.

71. The Government fully shares the concerns of the High Commissioner about impunity in Colombia, and refers to the observations in Chapter II of this official response.

72. The Government disagrees completely with the High Commissioner's assertions regarding supposed shortcomings of the draft Military Penal Code; Chapter II of this paper shows such concerns to be groundless.

73. The Government shares the High Commissioner's concerns about regional justice, and refers to the comments in the corresponding section of Chapter II, which discusses its origin, its limited nature, and the Government's policy of doing away with the system.

74. The Government feels that the High Commissioner's observations about the measures taken to remove the problems impeding the enjoyment of human rights fail to take account of the consistent and sustained political efforts that have been made to address the issues of peace and human rights.

75. The Government fully shares the High Commissioner's concerns about the situation in the country's prisons, which is discussed in Chapter II of this document.

76. The Government shares the High Commissioner's concerns about the plight of children, an issue that has been the object of special attention in its social policies, as noted in Chapter III of this document. On the other hand, it stresses that Colombia's domestic provisions on the hiring of minors under 18 have never in any way violated international standards in the area.

77. The Government joins with the High Commissioner in deploring violations of basic human rights committed against human rights defenders, public officials, journalists, labour unionists, judicial officials, members of social organizations and victims in general.

78. It does not agree with the statement alleging the Government's non-compliance with international recommendations, as explained in Chapter I, section E (with respect to the report's recommendations) and in Chapter II, section B (on the draft Military Penal Code and the codification of crimes against humanity).

79. The measures taken by the Government with respect to forced displacements have been aimed at dealing comprehensively with this problem. But it must be recognized that eradication of its causes, linked as they are to the conflict, does not depend solely on the Government's will. A solution must involve the many armed groups, and must await a resolution of that conflict.

80. The High Commissioner's conclusions with respect to economic, social and cultural rights are addressed in Chapter III of this document.

E. With respect to the recommendations

81. The Government is aware of its obligation to comply with the standards and provisions of the international human rights instruments that Colombia has ratified. It is a deliberate feature of its overall human rights policy to present and promote reforms that will adapt national legislation to these

requirements. It also takes account of the recommendations and initiatives relating to international standards and practice as proposed by various bodies of the United Nations system for the protection of human rights.

82. Thus, in 1995 it created a committee that brings together once a month the government departments and agencies concerned with issues of peace, human rights and security, to analyse and give effect to recommendations from intergovernmental human rights bodies. Since September 1997, this committee has been the primary setting for dialogue between the Government and the Office of the High Commissioner in Colombia.

83. This is a suitable occasion, however, to point out that some of the report's recommendations lack concrete proposals for strategies or specific measures that would make their application in the country viable, as envisioned in the mandate and objectives of the Office. Their generality is such that they merely reiterate the obligations by which the Government is already bound under international treaties and under its own Constitution and laws. The Government might have hoped that the report in its recommendations, besides repeating those made by the agencies cited earlier, could have offered concrete initiatives based on the Office's own observations and its close familiarity with the country's circumstances.

84. The Government recognizes that, because the Office is still in the early stages of its work, and has been focused on positioning itself and coming to grips with the complex national scene, the report could have hardly been other than it is. The Government remains confident that the Office will be able to overcome these limitations.

F. With respect to the treatment of sources

85. The Government notes that the selection of time-frames for quantifying various types of human rights violations does not follow any coherent pattern, and that in fact the periods selected differ widely. On occasion the frame of reference is relatively short, corresponding to the length of time that the Office has been in operation, while elsewhere the periods selected are longer and not comparable, in some cases stretching back over years and even several decades. This lack of methodological rigour makes it difficult to offer an accurate diagnosis, and to discern any pattern to the emergence, continuation, trend and intensification of violations.

86. It shbuld be pointed out, as well, that in its handling of information sources used to establish its analysis, the Office has compiled its data from records provided by official and private bodies, and those from its own findings. It is frequently unclear, throughout the report, whether the various items of data reported are intended to be added together, or whether they are given for purposes of comparison, or again to illustrate the deep discrepancies among the different available sources. As a result of this disparity, the report suffers from confusion in its presentation of data on the various violations. The Government notes that the Office has been unable in its observation work to overcome the serious problems that exist with respect to the consistency of records on human rights violations, and the compatibility of the various quantitative parameters used.

II. SOME SPECIFIC ASPECTS OF THE REPORT

A. Protecting human rights defenders

87. In a country as polarized as Colombia has become, the task of human rights defenders and activists is especially difficult, since there are some segments of opinion that regard any denunciation of the activities of agents of the State as indicating sympathy with or ties to the guerrilla groups. This attitude is a pervasive one, particularly among the vigilante groups. In such a setting, there have been a number of serious acts that have cost human rights workers their lives.

88. The Government recognizes this problem, and it also recognizes the legitimate work that human rights NGOs are performing, openly and in accord with law and the Constitution. The President of the Republic has accordingly issued a directive to all State officials ordering that complaints and proposals by these organizations be given full attention.

89. Moreover, in response to the calls for government action on the part of human rights organizations, the Minister of the Interior has set up a Special Protection Program for Human Rights Defenders that provides for special preventive and protective measures to be taken whenever the situation so warrants. Several of the best-known NGOs in the country now benefit from special protection for their headquarters and for their personnel working there. The Government plans to continue this Special Protection Program and to strengthen it.

B. The draft Military Penal Code and the codification of crimes against humanity

90. The Colombian Government in recent years has been making considerable progress in its legislation regarding human rights. Among other moves, it has secured approval of: Law 171 of 1994, which incorporates Additional Protocol II to the Geneva Conventions on International Humanitarian Law, Law 199 amending the structure of the Ministry of the Interior and creating the Human Rights Unit, Law 241 of 1995 approving the American Convention on Violence against Women, Law 288 on compensation for victims of human rights abuses pursuant to awards by international bodies, Law 409 of 1997 incorporating the Convention against Torture, and Law 434 of 1998 creating the National Peace Council.

91. As part of this framework of legislation, the Government submitted to Congress last September two further legal initiatives. The first would reform the Military Penal Code, while the second would classify as crimes the enforced disappearance of persons and genocide, among other provisions relating to human rights. The submission of these initiatives to Congress is the culmination of three years of concerted effort on the part of many governmental and State bodies. Acting upon the message of urgency sent by the President of the Republic, both houses of the Congress gave approval upon first reading to the reforms to the Military Penal Code, which now await approval in plenary - a fact that is not mentioned in the report.

92. Nor does the report recognize the political will and the significant institutional progress that these reforms represent. Instead, it limits itself to comments - erroneous at that - on specific aspects of the proposals.

1. Draft Military Penal Code

93. The draft Code represents substantial progress in the following areas:

94. It defines the scope of military jurisdiction, excluding from the purview of military justice all crimes that constitute serious violations of human rights and, in particular, the crimes of enforced disappearance, torture, and genocide; it also excludes sexual crimes, and conspiracy to commit crime (for example, creating and joining vigilante or paramilitary groups). In addition, it provides a clear definition of service-related offences, which will serve as mandatory guidelines for military courts.

95. It places limits on the principle of obedience to orders as a defence against responsibility, by requiring that such orders must be legitimate, issued by a competent authority, and consistent with the requirements of law.

96. It recognizes the status of civilian parties to military justice proceedings, allowing victims to present and examine evidence and to obtain compensation.

97. It separates the functions of jurisdiction and command, so that judges are independent and can dedicate themselves exclusively to the administration of justice.

98. It limits panel and jury trials to crimes classified as military ones, a move that will in particular mean that the mandatory resort to second jury verdicts will be restricted to a limited number of crimes.

99. It is remarkable that the report has deprecated these major reform efforts by limiting itself to narrowly focused and inaccurate objections, ignoring the significant overall changes they entail, as well as the valuable process of cooperation and debate they have involved, and the clear determination of the Government to make them effective.

100. The Office's first objection to the draft reform is that it does not expressly establish the non-applicability of the ground of due obedience for cases in which orders giving rise to human rights violations have been carried out (para. 143).

101. On this point, the report is apparently mistaken: the draft provides that higher orders must be legitimate, issued by a competent authority, and must comply with all legal requirements. Obviously, an order that calls for the violation of fundamental rights cannot be a legitimate order. Moreover, the most serious crimes are expressly excluded from military jurisdiction, a fact that, added to the above reasoning, means that the draft reform is very clear to the effect that violations of human rights cannot be excused on the grounds of due obedience.

102. The Office's second observation is that the reform would limit intervention by the civilian party (para. 143). The presence of the civilian party is an innovation in the Military Penal Code, when it is recalled that the Code in effect since 1988 did not recognize such status.

103. It is true that, under the reform, the civilian party may not oppose findings or rulings that do not relate to claims for compensation, and this is consistent with the jurisprudence of the Supreme Court of Colombia with respect to criminal proceedings before civilian courts.

104. The powers of the civilian party, as now contemplated, provide full scope for legal action, since that party can bring appeals against rulings that absolve or deny responsibility of the accused, and can demand the introduction of evidence. This means that the civilian party has adequate opportunity to participate in determining the responsibility of the accused, and to seek financial compensation.

105. The Office's third objection is that the provision to try senior military officers before the Supreme Court as the court of first instance is a violation of article 14 of the Covenant on Civil and Political Rights (para. 143).

106. It is normal constitutional practice in Colombia to try general officers of the Public Forces directly before the Supreme Court, which in fact has jurisdiction of first instance over all senior State officials.

107. Finally, the Office complains that the draft reform fails to give full effect to the principle of independence and autonomy of the judiciary, because military judges are appointed by the military authorities (para. 143).

108. The reforms do not allow military judges to be appointed by the military authorities; on the contrary, it provides for a sharp distinction between jurisdiction and command. Moreover, a draft bill concerning the structure of military justice is now under consideration for the next session of Congress, and it is fully in keeping with these reforms.

109. The first point to note, with respect to the bill, is that in addition to dealing with the forced disappearance of persons, it also makes genocide a crime and increases the punishment for torture.

2. Criminalizing the forced disappearance of persons

110. The Office states categorically that "the bill is not in conformity with relevant international instruments". It backs up this sweeping indictment with a number of specific and unfounded objections. In fact, as the following paragraphs demonstrate, the draft is fully in accord with those parameters.

111. The Office's first objection is that the definition of the conduct covered by the draft law is not in conformity with relevant international instruments (para. 148).

112. The bill divides its treatment of the crime of enforced disappearance of persons into two articles, the first of which covers cases where the

perpetrators are agents of the State, and the second where they are private individuals. That treatment, as the Office's experts are well aware, reflects the fact that in Colombia there are also private parties that engage in enforced disappearances, in particular guerrilla and vigilante groups.

113. Furthermore, where the crime is committed by individuals acting on the order or with the acquiescence of agents of the State, this is deemed to be conspiracy to commit crime and aiding and abetting crime, both of which are offences under our ordinary criminal code. The Government is convinced therefore that the reform complies with international standards in this regard.

114. The report's second objection is that the proposed provisions do not exclude due obedience as a ground for exemption, and they do not eliminate the jurisdiction of military justice for trying the perpetrators of such crimes, nor do they establish the exclusive jurisdiction of civilian courts in these cases (para. 148).

115. This statement is surprising, since the Office's experts are well aware that such provisions were expressly included in the draft Military Penal Code, which was submitted to Congress prior to the date of the report. That draft Code in fact, as explained above, excludes military courts from trying cases of enforced disappearances. Nor, for the reasons explained, does the defence of due obedience apply to such cases. Consequently, it was not necessary to repeat, in this draft, rules that were already defined in a previous one.

116. The third objection raised by the Office is that there is no recognition of the victim's right to indemnification. This is a right that is already enshrined in existing legislation, in the ordinary rules governing criminal proceedings, in administrative dispute proceedings, and more specifically in a law proposed by this Government that would allow enforcement of compensation awards to victims of human rights violations upon the recommendation of intergovernmental human rights agencies, and in particular upon that of the Human Rights Committee and the Inter-American Commission on Human Rights.

117. The Government regrets that the Office has not seen fit to appreciate the value of these two draft reforms, and that it has put forth ill-considered objections that, moreover, tend to disparage the entire process of democratic reforms in which Colombia has been engaged.

C. Impunity

118. This is generalized and complex structural problem that afflicts all areas of the administration of justice. It can be appreciated, then, that this is an area in which it will be difficult to bring about substantial change in the short run. The Colombian Government has undertaken a number of measures to put an end to this scourge, including: providing more resources for the justice sector; taking steps to relieve the backlog in the courts; seeking alternative methods of conflict resolution; training and upgrading of public officials.

119. Impunity is one of the most critical issues in the human rights situation, and one of the most notorious factors in the spread of violence and the prevalence of high rates of human rights violations.

120. Among the measures taken to combat impunity in the area of human rights and international humanitarian law are the following:

121. An "elite" investigations body, the Human Rights Unit, has been set up within the Office of the Procurator-General (Fiscalía General de la Nación) which focuses its efforts on selected cases of particular significance in order to clarify the facts and punish those responsible.

122. It is the belief of the Colombian Government, shared by non-governmental agencies, that these selective procedures will help to overcome the problem of court backlogs, and will allow the highest priority to be devoted to particularly egregious cases that involve patterns of behaviour that are difficult to investigate. This is the thinking behind the limitations on the number of cases assigned to the Unit. The results obtained to date have served to send a clear message about the censure that acts of this type deserve, and to demonstrate that our legal institutions are fully capable of taking action against them.

123. In the struggle against the vigilante gangs, the Fiscalía and the Public Forces have been coordinating their efforts, especially since the creation of the Bloque de Búsqueda or "search squad", and have acted on 374 arrest orders against such groups. According to a report from the Minister of National Defence, 48 members of vigilante groups have been killed, and 231 persons have been captured and handed over to the Fiscalía for suspected links to such groups, during the course of 1997 and 1998 to date.

124. The Office of the Attorney-General of the Nation (Procuraduría General de la Nación) has disciplinary powers that allow it to take over investigations from the internal jurisdiction of any branch of the Public Forces, if the case is deemed to merit its direct attention. The Attorney-General brought more than 100 criminal charges against public servants during 1997 for violations of human rights.

125. The Government has facilitated the work of the State investigation and prosecution agencies through various forms of collaboration, ranging from revising laws and sponsoring amendments to providing logistical support for the collection and investigation of evidence in specific cases.

126. The Office of the People's Advocate (Defensoría del Pueblo) plays an important role in promoting and protecting human rights, by hearing cases of human rights violations, by offering human rights education, and by overseeing the performance of the administration in this area. The People's Advocate receives on average more than 20,000 complaints a year, and a similar number of consultations and advisory requests on matters concerning civil and political rights, as well as economic, social and cultural rights. More than 19,000 individuals take advantage of its training programmes every year.

127. The writ for the protection of constitutional rights (acción de tutela) has been an effective and widely used tool in the protection of basic rights,

in particular the right to due process and, on several occasions, the right to life itself. The domestic courts and tribunals receive on average more than 16,000 applications for such intervention.

128. The Constitutional Court ruling that defined the scope of military jurisdiction and as a result provides for the transfer of cases from the military to the civilian courts, has been put progressively into effect by the authorities. To date, 141 trials have been transferred at the request of the Attorney-General of the Nation (Procuraduría de la Nación).

129. Colombian law provides an effective mechanism, for which a solid body of jurisprudence has been built up, under which recourse can be had to the courts to obtain financial compensation for acts attributable to agents of the State. This mechanism has been employed on numerous occasions to compensate victims of human rights violations. In addition, there is a newly introduced legal procedure for giving effect to compensation awards by international human rights agencies, under which more than 232 individuals have benefited, in 17 separate cases, for a total amount of some $2 million.

130. The provision for reaching a friendly settlement before intergovernmental human rights agencies has also proven itself a valuable tool against impunity. This mechanism seeks to coordinate the efforts of the Government, the investigative bodies and the family representatives of the victims in clarifying the facts of the case.

131. All of the specific cases of human rights violations cited in the High Commissioner's report are under investigation by the competent authorities. The Government is giving special attention to expediting the investigation and processing of these cases through the courts.

132. The Government of Colombia recognizes that it is still far from achieving the required levels of efficiency, and believes that the scope and complexity of the phenomenon demand a more decisive degree of cooperation and commitment on the part of the individuals and institutions concerned.

D. Forced displacement through violence

133. The problem of Colombian citizens who find themselves forcibly displaced by violence has roots extending far back into the country's history, which has been marked by continuous migrations and flows of people. This phenomenon has surfaced at various stages in the nation's existence, including in the middle of this century during the time known as "La Violencia".

134. In recent times, the problem has become more acute, primarily as a result of the resurgence and spread of domestic armed conflict. One manifestation of the increasing viciousness of that conflict is that paramilitary and guerrilla groups have come to treat civilians as military targets. Forced displacement has become part of a strategy for seizing or consolidating their hold over specific areas.

135. The vigilante and guerrilla gangs have adopted displacement as a political and military strategy whereby, in the face of imminent attack, or at

the insistence of the aggressors, people are forced to flee their lands, individually or en masse, leaving behind whatever meager belongings they may have.

136. The Public Forces, as part of their constitutional duty to preserve public order, are frequently called on to repel guerrilla attacks on towns, villages, or government facilities. In the course of such confrontations, the local populace are often forced to flee, many of them to return after hostilities have ended. This by no means constitutes a deliberate strategy of the Public Forces.

137. The Colombian Government emphatically rejects the assertion in the report that the enforced displacement of persons is part of the strategy of the Armed Forces in conducting its anti-insurgency campaign. Similarly, the Government resolutely denies that such conduct is a part either of the tactics or the practice of the Armed Forces; and while the occurrence of isolated instances cannot be excluded, they cannot be construed as a pattern of routine behavior, much less as a deliberate policy.

138. In the face of this problem, the Government has adopted policy guidelines for confronting it, and has undertaken to develop a series of programmes to help those who have fallen victim. It has established an institutional framework to provide the required care and support. It has, for example, created the Department for Human Rights Administration within the Ministry of the Interior, and the Presidential Council for Displaced Persons.

139. In order to establish a suitable legal framework for providing help to these people, a law was introduced in 1997 to assign institutional responsibilities, coordinate actions, and rationalize efforts for preventive and emergency assistance, and to provide economic stability for people displaced by violence, with a view to helping them resettle elsewhere, or to return voluntarily to their former homes.

140. On this point, it should be noted that the Colombian Government has no particular interest in forcing people to return home. This is one of the options for achieving stability, but it is not the only one, and it is certainly not forced upon people. The intention is to try to prevent communities from being uprooted. There have in fact been a number of instances where people have been able to make a successful return.

141. The Government is insisting on a thorough study of security and safety conditions in cases where voluntary return is being arranged, and it will monitor such processes closely.

142. Since May 1997, 12 departmental committees and 14 municipal ones have been set up to work out local assistance plans for returnees, with the advice and assistance of the President's Council on Displaced Persons.

143. Pursuant to the law on displaced persons, referred to above, a national plan has been adopted to provide comprehensive assistance to people displaced by violence. The Government is making a major fiscal effort to expand and redirect public funding to meet the overall needs of the people involved.

144. The high priority that the Government has given to helping displaced people can be seen in the fact that some $24 million were expended in 1997, and more than $93 million are earmarked for spending in the current year. In addition, the Government has created an assistance fund for displaced persons, through which the resources devoted to this purpose are channelled. In addition to the funds supplied from the national budget and from international cooperation, that fund is assigned 50 per cent of the assets appropriated by the Government in the course of the recently initiated forfeiture proceedings against illicitly acquired properties.

145. The recognized need for reliable tools for collecting and compiling information on displaced persons and the nature of their circumstances led the Government in 1997, with the technical assistance of the International Organization for Migration (IOM) to design a national information network that is now engaged in conducting censuses by region.

146. It must be admitted, however, that the measures taken and the resources invested will never be sufficient to cope with a problem of this magnitude, and one that grows daily as the armed conflict persists.

E. Regional justice

147. These special systems of administration of justice under civilian jurisdiction had their origins during the 1980s, and represented a response to the growing public demands to deal with the escalating wave of violence and destabilization perpetrated by criminal organizations, primarily bands of drug traffickers, through their repeated terrorist attacks and assassinations of national leaders, senior officials and members of the judiciary.

148. Between 1979 and 1991, 515 judicial officials were the victims of such attacks, and 278 of them were killed. In the face of these facts, responsibility for maintaining public order was reorganized into a regional justice system, with the powers to withhold the identity of prosecutors, judges and witnesses, and to keep defendant suspects under preventive detention, following the example of models that have been used in other countries with similar problems.

149. In 1995, the Government proposed and Congress approved the Statutory Law on the Administration of Justice. Under its provisions, the regional justice system is to be abolished no later than 30 June 1999. The Government accepted this timing as necessary to allow for strengthening of the ordinary criminal justice system, while proceeding to dismantle the special system in a planned and orderly manner.

150. The Constitutional Court has ruled that secret witnesses and prosecutors are not to be considered a general norm under regional justice, which has meant that such mechanisms are employed on a case-by-case basis, as circumstances dictate.

151. The dismantling of the regional justice system is already under way. During 1997, Congress began consideration of a draft law proposed by various State agencies, independently of the Government, that seeks to move forward the abolition of the regional justice system, while allowing enough time to

wind up proceedings now under way in an orderly manner. Through the Minister of Justice and Law, the Government has given its political and technical support to this initiative, which has already passed first reading in Congress.

F. Special security services

152. The Colombian Government comprehends the concern that both public and private bodies abroad have expressed over the controversial use of the Special Security Services in specific instances. The existence of this instrument in Colombia can only be understood in the context of the persistent armed conflict; such an instrument is not considered viable in countries at peace, and there is no doubt that it carries with it many risks, which the Government is at pains to minimize.

153. These special security services formerly called "Convivir" Associations were created with the idea of providing the public with a legally defined mechanism for cooperating with the authorities in their work of surveillance and information gathering, in the face of growing demands for enhanced security in rural areas, where guerrillas attacks on civilians were frequent.

154. In the course of a broad and democratic national debate, the Constitutional Court declared that such associations were legal on the basis of the country's constitutional principles and norms, and on the basis of international humanitarian law. Its ruling restricted the carrying of arms to those for personal protection, while prohibiting the use of weapons reserved for the Public Forces - the use of war weaponry or private arms had never been authorized for such associations - and it prohibited them from attempting to perform the tasks of the Public Forces.

155. The Government has recognized the need to strengthen mechanisms for controlling these special security services. To this end it has undertaken an assessment of their operations, and it suspended the granting of new licenses until proper regulations could be issued, which occurred last December. These regulations are intended to restrict the creation of such associations, to confine their activities within precise legal bounds, and to exert strict control over their existence and their operations. The regulations expressly provide that no new special security services will be authorized in areas where there are serious disruptions of public order.

156. Consistent with the ruling of the Constitutional Court, the Office of the Superintendent of Private Vigilante and Security Groups, the body responsible for controlling these special services, has to date seized 242 restricted weapons from the 310 that had been authorized. In enforcing the regulations, it has suspended the issuing of new operating licenses for 62 special services whose licenses had expired. It has also ordered those with still-valid licenses to comply with the requirements of the Decree, and has cancelled the licenses for nine of these organizations permanently.

157. The Office of the Superintendent has also identified seven cases where organizations operating outside the law and without authorization, calling themselves "Convivir" survival associations, have apparently been involved in

committing crimes. The competent bodies now have these groups under investigation and prosecution. One of them is the group cited by the Office in its report as a "Convivir" association that was operating with legal authorization (para. 104).

G. The prison situation

158. Colombia's prison system has over several decades become burdened with serious operating problems. These have recently been much in evidence, in the form of overcrowding, internal violence, and tense relations between inmates, guards and prison administrators. The Government has taken a number of steps to deal with this serious problem, but there is still a need for substantial resources to reach an acceptable level of living conditions for inmates.

159. The capital budget has been increased by 64.2 per cent in real terms for 1998, and eight new prisons are under construction, while capacity has been expanded at two major prisons in the cities of Santafé de Bogotá and Cali, and other facilities are being upgraded. In the last four years, the overcrowding index has been reduced from 158 per cent to 47 per cent, a rate that still leaves a large portion of the problem unresolved, but that has nonetheless represented a significant financial and administrative effort on the part of the body responsible for the prison system. The law on alternative sanction, referred to in the report, will help further to reduce prison overcrowding.

160. A new profile has been given to the training provided to prison guards, one that is focused on rehabilitating and educating inmates, and that has an express human rights content. There are plans during this year to extend social security health coverage to the country's entire prison population. In addition, permanent mechanisms of communication have been established between inmates and prison administrators, and the formation of human rights committees is being encouraged in all prisons. As well, the Government has made it a policy to seek a negotiated resolution when prison riots break out.

III. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

161. The High Commissioner's report makes a number of vague and incomplete assertions in its section on economic, social and cultural rights, neglecting to take into account the context of a nation that, like Colombia, is still very much a developing country. It also ignores the progress that has been made through the social policies that have been implemented in recent decades, and the stress that has been placed on equitable development and the protection of minority rights during the last four years under the "Social Breakthrough" programme (Salto Social).

162. The report itself admits that "the Office has not had the capacity to carry out a detailed follow-up to this important group of rights, nor has it received complaints of violations of these rights". Thus, to argue as it does that "there is a lack of effective social protection in Colombia to guarantee a minimum level of subsistence in terms of food, housing, education and health care, and also a healthy environment", is invalid. It fails to recognize the social policy effort that the current administration has been making, through specific programmes to defend the economic, social and cultural rights of its

citizens, such as the Social Solidarity Network, the Recovery Programme, the milk programme for children, the Rural Social Contract, the "Plante" programme, the Women's Participation and Equity plan, the Water Plan, etc.

163. The report also claims that "certain negative practices, and the lack of appropriate mechanisms to combat them, are preventing many Colombians from exercising their economic, social and cultural rights". In this respect, it must be stated very clearly that the programmes cited above have provided encouragement for citizen participation and have promoted the creation of institutions as ways to combat those "negative practices", and ensure a more democratic and transparent system for defining and giving effect to those important rights.

164. Social accountability has been promoted, so that it is society itself that monitors and decides on the allocation of the resources provided to it, through the formation of local round tables where governors, mayors, officials, public corporations, social organizations and low-income community representatives can meet together to work out strategies and programmes. There is now also a greater degree of institutional accountability in the supervision and spending of public funds, through such agencies as the Office of the Comptroller General of the Republic (Contraloria General de la Republica) and the Office of the Attorney-General of the Nation (Procuraduría General de la Nación).

165. The report also overlooks the macroeconomic setting when it comes to assessing the performance of other variables such as employment, wages, and social housing. Colombia, like nearly all Latin American countries, has had to implement a structural adjustment programme to overcome the imbalances caused by the neo-liberal open economy model that was adopted in the early 1990s. Thus, the deep imbalances produced by that model (the surge in consumption and credit, the fiscal shortfall and the current account deficit, among others) have had to be contained under an adjustment programme that had a direct impact on economic growth, employment and other social indicators throughout the region.

166. Yet the report neglects to mention that in Colombia the comparative social cost of that adjustment has been among the lowest in the region, that the country has managed to maintain a positive rate of real economic growth, and that the unemployment rate, while rising, has been kept under control.

167. It would indeed have been worthwhile, in light of the adjustment effort that has been required, if the United Nations had gone into a more profound and detailed assessment of the tremendous impact that the forced adoption of the neo-liberal model of development has had on the long-term prospects for economic growth and equity.

168. Against the background described above, the Government offers the following observations on the United Nations human rights report.

A. Income distribution and poverty 2/

169. The stress that this Government has placed on social issues has meant that, despite the slowdown in economic growth, poverty has retreated and

living conditions for the poorest segments of the population have improved, in terms of access to social services and basic housing. The country's poverty and inequality indicators show this trend. The index of "unmet basic needs" (NBI - Necesidades Básicas Insatisfechas) has been on a continuous downward track, and the proportion of people with unmet basic needs has dropped from 21.1 per cent in 1993 to 19.3 per cent in 1995.

170. Similarly, the Incidence ratio, the primary index of poverty, which measures the proportion of the population that is living below the poverty line, has fallen in recent years (see table below). In fact, the proportion of poor people has declined from 58.1 per cent in 1978 to 56.5 per cent in 1992, and fell to 53.8 per cent in 1995.

171. In terms of inequality indicators, we find that the GINI index for the nation as a whole rose until 1993, reflecting the concentration of wealth produced by the neo-liberal model. Yet by 1995, the GINI index stood at 55.6 per cent, a reduction of 2.8 percentage points, indicating a lesser degree of inequality.

172. Similarly, the Sen index, which relates incidence, intensity and the GINI coefficient for low-income people, and has the virtue of measuring the welfare sensitivity of the "poorest", is showing improvement. The results set out in the table make it clear that Colombia's poorest people are seeing an improvement in their living conditions.

Poverty and Inequality Indicators

	1978	1988	1991	1992	1993	1994	1995
Incidence	58.1	54.0	56.5	54.6	55.2	53.2	53.8
National Gini	54.2	55.4	55.4	56.4	58.4	56.9	55.6
Sen Index	38.3	38.7	35.1	34.8	35.3	32.6	33.1

173. Finally, it is clear that the problems of inequality in income distribution reflect long-term trends, while the short and medium-term impact of government policies is felt in other indicators, such as that for unmet basic needs (the NBI). For this reason, significant changes in income and asset distribution arising from policies under the "Salto Social" programme will become evident only over the longer term.

174. As well, the significant changes in income distribution could be further reinforced through substantial reforms in the ownership of rural land and urban property, and these would in turn imply major changes in constitutional provisions. Such reforms, as international experience has shown in the case of centrally planned economies, can lead to higher levels of social welfare.

B. Education

175. Thanks to such strategies as the expansion of the public schools infrastructure, and the offer of direct grants to schools to raise their

enrolment and the provision of direct subsidies to poor students, it is estimated that primary education enrolment has increased by some 650,000.

176. At the same time, the Government has been aware that higher investment alone is not enough, and there must be an improvement in the quality of public education. To this end, some 87,000 teachers have been trained, textbooks have been provided to 3.5 million pupils, 885 municipalities have been equipped with Educational Resource Centers in support of secondary level schooling, and all primary schools in the country are scheduled to receive support materials for the teaching of reading, writing, mathematics, basic science and technology.

177. The enrolment rate in higher education stands at 14.0 per cent, a rate that is relatively low in comparison with other countries of the region. Recognizing the shortfall in educational facilities of this kind, the Government has adopted a higher education policy aimed at making significant improvements to the quality and relevance of higher education programmes, facilitating access for low-income students to these institutions (to reduce inequality at this level of schooling, and thus improve coverage), to contribute to modernizing and upgrading centres of higher learning, and to encourage their development in the regions and in border areas.

C. Health

178. One of the major achievements of the "Salto Social" programme has been the implementation, beginning in 1995, of reforms to the social security health system instituted by law 100 of 1993. In the first two years since their introduction, the coverage ratio has risen from 30 per cent to 50 per cent at the end of 1996, and it is expected to reach 60-70 per cent by the end of this Government's mandate. Already, this means that more than half of the country's population is now insured.

179. During the Samper administration, some 5.9 million people from the poorest strata of society have been enrolled under the State-subsidized regime, while 6.8 million individuals have signed up for the contributory regime. Their numbers, when added to the 6.6 million who were already insured in this manner, bring the total membership in the contributory regime to 13.4 million. Moreover, through SISBEN (the Social Program Beneficiary Selection System), health care is now available to 95 per cent of individuals in the lowest income strata in all municipalities across the country.

180. These and other examples of progress have received international recognition in a number of forums, and many countries are eager to repeat our experience. It is simply inaccurate, then, for the report to claim that the result of the Government's efforts "has not been increased enjoyment of this right throughout the country".

D. Housing

181. The Samper Government has introduced a social housing policy for both rural and urban areas, one that has shown highly gratifying results in terms

of resource allocation and the number of housing subsides granted. Moreover, it has met the declared objective of targeting the lowest-income groups among its beneficiary households.

182. The goal of the urban social housing programme is to raise the number of subsidized units by 502,000 between 1995 and 1998 (100 per cent more than in the previous four-year period); in addition, the housing deficit is being attacked with financing for an additional 106,000 units through credit facilities. Thus, the goal for the four year period is to upgrade or build 608,000 dwellings. Government figures show that these programmes are moving forward quickly, so that by the end of 1998 the country's deficit in urban social housing will have been reduced by 41 per cent.

183. These accomplishments are even more significant if viewed in the macroeconomic context that Colombia faced between 1995 and the first part of 1997 - a context that the report overlooks. As is well known, the economic adjustment programme has entailed the highest nominal interest rates seen this decade (and among the highest in the country's history), and this has had an impact on the availability of housing credit. It should be noted, however, that this situation has now been remedied, and interest rates, in both nominal and real terms, have declined substantially, to the particular benefit of the housing market and job creation.

E. Employment

184. In looking at the rise in Colombia's unemployment rate, as noted earlier, it is important to bear in mind the economic setting in which the country has found itself. Unemployment rose because of the weakening of the economic cycle, induced by the adjustment programme, which depressed activity in various sectors such as industry, agriculture, commerce and construction, areas that have traditionally been sources of jobs for unskilled workers.

185. The imbalances created by the economic opening led to introduction of an adjustment programme based on a restrictive monetary policy. The Central Bank, a body that is independent of the Government, overshot its adjustment targets, raising interest rates to unprecedented levels and prompting strong upward pressure on the exchange rate. This in turn made itself felt on aggregate demand, affecting the local output of tradeable goods and forcing the closure of many companies, and the attendant layoff of workers.

186. This trend was aggravated by other factors. First of all, the process of technological modernization and industrial restructuring led to displacement of workers, and secondly the country was more intensely exposed to international economic cycles. Again, it would be well if the United Nations were to conduct an in-depth analysis of the impact that globalization has had on employment indicators, not only in developing countries, but also in the industrialized nations, where Europe, for example, now has high rates of unemployment.

187. What is needed is a new international consensus that would place limits on this situation, which runs the risk of becoming yet a further ingredient of

social unrest in many countries, and one that is of particular concern to developing countries whose democratic and institutional systems depend on broad public support.

188. In the face of rising unemployment, the Government has adopted a proactive policy to offset the recessive effects of the economic cycle and the trends of automation inherent in the globalization process. In this respect, it has launched active employment creation programmes, through investment in infrastructure and in social housing construction. As a result, more than 200,000 jobs were created between September 1994 and the same month of 1996. In addition, it is estimated that the housing programmes have generated some 68,000 jobs, directly and indirectly, during the second half of 1997.

189. On another front, the situation of child workers has been an issue of vital concern in the Samper administration's social policy. Among the steps taken to stamp out child labour and to protect working minors, four regional monitoring committees have been set up, and a policy has been instituted of actively seeking out children at risk. In addition, an information system has been activated, a programme has been introduced to sensitize workers and employers, and both the private and public sectors have been enlisted in support of the programme.

190. Finally, the Minors Code has been submitted to Congress for consideration, as a major government initiative to provide comprehensive protection of rights pertaining to children.

F. Environment

191. First of all, it should be noted that the country is not losing 500,000 hectares of forest each year, as the report suggests; the figure is 200,000 hectares, according to official data.

192. Programmes under the "Salto Social" programmes have accorded special emphasis to protection of the environment as a fundamental tool for promoting sustainable development. Work is progressing on the regulatory framework for national environmental policy, and the role of the Ministry of Environment has been strengthened.

193. One recent success on the environmental front has been the Ministry of Environment's launching of the financing strategy for environmental investment in Colombia 1998-2007, which proposes a set of medium and long-term objectives as a framework for ensuring that resources will be available to meet the challenge of improving the environment.

G. Food

194. It is not true that the abandonment of large stretches of farmland in Colombia can be laid exclusively to the violence afflicting the farming sector. It is also due to the introduction of neo-liberal policies that have undermined prospects for the country's agricultural development. This Government believes that the revival of agricultural activity is of strategic importance, and has accordingly launched initiatives, such as the Rural Social Contract, that are aimed at promoting the development of social capital in the

countryside, the modernization of institutions that support the rural sector, and joint efforts on the part of the State and local citizens' organizations.

195. With respect to malnutrition among children, the Government can point to the "Covenant for Children" (Pacto por la Infancia), which reflects the nation's commitment to foster a new culture on behalf of Colombia's children. Under this Covenant, 235,000 school children have been provided with food supplements, 85,000 rural children have received the rural food bonus, and 340,000 pupils have been shifted from the simple snack programme to the compulsory school lunch programme, thereby doubling the goal established for 1996. These programmes of nutritional improvement and support now cover 73 per cent of a child's daily food requirements.

196. In conclusion, for all of the reasons discussed above, it can be unequivocally stated that the Government is actively supporting the economic, social and cultural rights of its citizens. The Government is preoccupied with the poverty and inequality that its people suffer, and is taking all the steps within its power, given the economic and social conditions afflicting the country, to address the situation. Never before has there been such an awareness on the part of Sate institutions about the importance of social investment as a tool for promoting human rights. What is more, the Colombian Government is convinced that, through the policies it is implementing under the "Salto Social" programme, it has provided sufficient breathing space for the country to begin to build a new consensus around the issues that are of vital importance to democracy and human rights, such as the need to balance the open economy model with investments in education, health, housing, social security and infrastructure.

197. This new consensus is teaching Colombia's political class and ordinary citizens alike about the importance of investing in human capital, in tandem with physical investment, as an indispensable tool for achieving balanced development on the economic and social fronts. This is the kind of development that, because it holds equity as its ultimate goal, offers the best guarantee that social imbalances can be redressed and that, as a result, the country can establish a climate in which peace will flourish and the human rights of all its citizens will be honoured.

IV. ASSESSMENT OF THE OFFICE'S MANAGEMENT: CHALLENGES AND PROPOSALS

198. In the pursuit of its mandate, the Office of the High Commissioner in Colombia has devoted its efforts to cooperation, support, observation and advice in the search for solutions that will improve the situation of human rights and international humanitarian law in Colombia. It has carried out its tasks in an impartial, independent, objective and transparent manner, and has made a valued contribution to the country.

199. During this first stage of its work, the Office has played a fitting and important role in creating an environment that is prepared to welcome help from the international community, by maintaining a continuous and high-level dialogue with all State authorities and with the various sectors of society.

200. This is without doubt a basic and indispensable step forward for the Office, and places it in an excellent position to foster a climate of confidence among all the parties involved in the problem, which is a prerequisite for finding a solution.

201. The Government of Colombia nevertheless believes it important that, on the basis of its first year of experience, and in full compliance with its mandate, the Office should be able during the next phase to help, through initiatives, plans and specific programmes, in the implementation and promotion of policies and actions that will give concrete effect to human rights.

202. The Office's advisory function is essential, and needs to be strengthened. This means that it should draw upon its observations as a source of inspiration for viable proposals that offer a concrete response to Colombia's difficulties. The Office has so far limited itself to repeating recommendations made in other United Nations forums which, valid though they may be, offer little in the way of practical proposals for implementing them, as called for in section 7 (e) of the Agreement.

203. Similarly, in this next stage, it will be important for the Office to pay special attention to the function stipulated in section 7 (d) of the Agreement, which refers to providing assistance with citizenship education programmes.

204. The Government has agreed that the number of experts should be increased in 1998. As noted in the preceding paragraphs, we consider it very important that the team should be reinforced with experts at the most senior levels, so that the Office can carry out its tasks to the greatest advantage.

205. The Government wants to see the Office maintain and expand its capacity for local visits to areas that are particularly prone to violence, so that it can continue to promote preventive action by the authorities, and contribute, through its very presence, to the reduction of tensions.

206. With respect to the problem of displaced persons, it would be well for the Office to strengthen its contacts with UNHCR and with other agencies of the United Nations system, and to take part in the search for comprehensive solutions to the problem.

207. The domestic armed conflict is the primary source of human rights violations in Colombia, and the mandate of the Office must be read in this context. For both these reasons, the Government believes it important that the Office, through its capacity to observe and monitor violations of the standards of international humanitarian law, should issue a clear and consistent demand, in the name of the international community, that armed outlaw groups must respect those standards, and engage in dialogue and reconciliation. Actions of this kind would have a direct and beneficial bearing on the Office's specific task of promoting and protecting human rights.

208. In conclusion, from the perspective of strengthening this innovative mechanism for international cooperation, the great challenge facing the Office is to increase its efforts to seek solutions to the problems of human rights and international humanitarian law, based on its independent and impartial monitoring and analysis of the situation, that can make a true and action-oriented contribution for all the sectors involved.

Notes

1/ In the successful peace process in Guatemala, a total of 3,000 combatants were demobilized.

2/ The data in this section were drawn from: Nina Esteban, "Evolución del Perfil de la Pobreza y la Desigualdad en Colombia 1978, 1988, 1991-1995 - ¿Qué Tan Pobres son los Pobres?", Consultant paper prepared by the Social Mission, DNP.